App. F. IX-4

Previous References
Law. 215-36 (1-27)

1936.
(Law)
PRISEC

Law File No. 215 of 36
Serial Nos. 3 & 7.

Letter References
Law 6-37-17 & 19

Present
(69)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Five.

Part B for December 1937.

SUBJECT.

C.C. No. 1 of 1936-37 on the file of the District Magistrate, Bangalore (Government Vs. Muthadeva Sastry.

WD 0295—GPB—22,500—13-8-37

Murzza Nazeer Hussain
22/12/37

V.I.I

Case against Mahadeva Sastry

General and Revenue Secretariat | File No. Law 215 of 1936. | [App. F. III—2

Serial No. 3

From

The Dist Magt

B'lore

Letter no J1-C.C.1/36-37, dated 10-6-37

States that a charge sheet has been ~~placed~~ filed against Mahadevasastry in his Court, and requests Sanction of Govt to engage the services of the P.P., B'lore to conduct this case.

1) It is reported that a charge sheet has been filed in his court against Mahadeva Sastry for an offence under Sec: 124 A. I.P.C. The Dist Magt, B'lore requests Sanction of Govt to engage the services of the P.P., B'lore to conduct this case.

P.W.D.

2) Very recently in Law file 221-36- file relating to the "Indian Merchants Bank defalcation cases" — certain observations have been made raising an important point of procedure. ~~and~~ Moreover this will interfere with his regular work.

His is not ut for this e

BKR 12.6

Submitted for orders.

date -6-37.

SB 12/6

BKR 12.6

3) Gen. Secy) Maybe appd

Ans 12/6

BKR 12.6

-Con. Sheet

OFFICE OF THE PRINT MEMBER 13 JUNE 1937 634 P.2.

First Member

WD 0417—GPB—30,000—5-9-36

4) Jor

3092 12.6.37

12/6 Ans 12/6

Case against Mahadeva Sastry 6977

Law File No: 215 of 1936.

General and Revenue Secretariat

Serial No. 4

Hp. date 17-6-37

3) Subd. with a dft. for approval
15/6

6) Shee
BNR
15.6

T.O. no. P. 6980, dt 15-6-37

From
The P. Pr.
B'lore

Letter no 53/36-37, dated 21-6-37
Seeks instructions regarding the filing of certain documents.

7) Submitted
25/6

8) Further communication from the Pr may be awaited -
BNR
25.6

From
The P. Pr, B'lore

Letter no 2476/36-37, dated 25-6-37
States that he has moved for an adjournment.

From
The P. Pr, B'lore

Letter no 23/36-37, dated 26-6-37

9) The P. Pr requests to

C. C. 1/26-37 Ct. Magt., B'lore (Govt. vs Mahadeva Sastry.) 7296

Serial No.

informed whether it was the City Supt. of Police that was authorised by Govt. to prefer the Complaint in question.

P. V. D 2 & 2 is submitted for orders.

f. date 7-7-37

30/6

10) In P.V.D. I, the P.P. says that in his opinion the Sanction that is given by the Government is not quite explicit, and also seeks instructions whether privilege should be claimed in respect of certain letters referred in the order of Sanction

11) The P.P. has not indicated why the Govt. order is not explicit. I think it is as explicit as it can possibly be. It is somewhat elementary that the accused or the Court is not entitled to go behind the Govt. order Sanctioning prosecution, to find out the basis for the order or to sit in judgment over its propriety. The question raised by the P.P. implies regarding the letters mentioned in the Govt. order implies that the accused can ask the Court to go behind the order to satisfy itself about the justice or the propriety of the order. Further, the letters referred to in the Govt. order

WD 03594—GPB—30,000—13-7-35

are in the nature of reports made by subordinate officers in official confidence and public interest will suffer by their production. P.P. may therefore be informed that, if a question arises about the production of the letters referred to in the G.O. under reply, the court take two objections viz (i) that they are not relevant and (ii) that they are privileged documents.

(2) In P.W.D. II, the P.P. feels some doubt about the correct view of the D.S.P, Bangalore city having filed the Complaint, while according to him it was the D.S.P. Bangalore District who had been permitted to lodge the Complaint. I am afraid that the P.P. is apprehending imaginary trouble. The Government order directs that in respect of a speech delivered by the accused at Bangalore, the D.S.P, Bangalore should take necessary action to prosecute the accused under Section 124 A. I.P.C. The word 'Bangalore' used in the G.O. under reply must be given the same meaning wherever it occurs

and solicits instructions if D.S.P Bangalore city was authorised to prefer the complaint. MR

* There cannot be any reasonable doubt that what the G.O. authorised the D.S.P Bangalore city though the word 'city' is omitted after 'Bangalore' this omission in my opinion does not lead to any ambiguity

Serial No.

I am sure that the learned Public Prosecutor will concede that 'Bangalore' when used in relation to the place of delivery of speech by the accused means Bangalore city, and his letter says if so, I am unable to see why the same word occurring in the next sentence of the order, should be interpreted differently as meaning Bangalore District. If such an interpretation were possible, I am sure the D.S.P. Bangalore City would have got the point cleared, before he took the responsibility of filing the Complaint In these circumstances, I do not think it is necessary, as hinted by the P.P., to examine any Secretariat officer to speak to the fact that it was the D.S.P. Bangalore City, who was authorised to prefer the Complaint. The D.S.P. who has filed the Complaint is competent to speak on the point. All that is required is that the Court should be satisfied from the materials before it that the Complaint was made by or under authority from, Govt.

13) I may also observe, that even if we concede for the sake of argument, that the D.S.P. Bangalore City, who has filed the Complaint, was not the person authorised in that behalf, it can at best be viewed

WD 0417--GPB—30,000—8-9-36

Law File No. 215 of 1936. | General and Revenue Secretariat

Serial No.

only as an irregularity. It has been laid down in A.I.R 1923 Madras 328 that "When the question is only one of machinery for the institution and prosecution of proceedings, and not of the mischief which Section 196 is designed to prevent — the institution of proceedings in respect of grave political offences without the approval of Government at all — we must be prepared to hold that we are concerned only with an irregularity covered by Section 537 and not with an illegality by which the proceedings would be vitiated."

14) But in fact, there is neither illegality nor irregularity.

BSR
2.7.37

Gen. Secy)

15) I agree. Please consult Govt also to make sure however.

Govt
4/7/37

G.O.No.P 202/36 dated 3.7.37.

16) Forwarded, with compliments, to Government Advocate, for favour of advice. The file may, if possible, be returned in the course of the day.

BSO
B.S. Ramakrishna Iyengar
Jr Gen. Secy
3.7.37)

GENERAL SECRETARIAT
2 JUL 1937

Hg
7.7.37

Hg date
7-7-37

7. No. 8/37.3
1
3.7.37

Serial No.

G.O.No.3/37-38 17

5.7.37.

Returned with compliments.

I got the papers late in the afternoon on Saturday the 3rd instant, while I was at the Meeting of the Legislative Council. I could not attend to it immediately and the next day being Sunday, to-day was the earliest day on which I could return the file and I did so after making sure from the Assistant Secretary, Law, that at the latest I might return the papers to-day.

2. I agree with the Assistant Secretary, Law, in his opinion expressed in para 14 of the file and for the reasons given by him in the paragraphs preceding it. As noted by him there is no room for any ambiguity on what exactly the import of the word 'Bangalore' is. It should be construed as Bangalore City, since it is obvious the word Bangalore in the earlier portion of the order must be Bangalore City where the offence took place.

3. That apart, even assuming that it may mean Bangalore District, still it does not affect the question. It is an elementary principle that all offences are really offences against the State and that anybody could set the criminal law in motion. But on the ground of expediency or public policy, certain restrictions are placed with reference to the powers of Courts to take cognizance of certain classes of offences e.g., Defamation, Adultery, Rape, which can be complained of only by the persons named in the relevant sections, the reason being to reduce the risk of innocent persons' reputation being jeopardised

by a mockery of a collusive trial. Again, with reference to offences against public justice, a similar bar is laid as in Sec.195 of the Criminal Procedure Code, likewise regarding offences committed by the public servants as in Sec.197 Crl.Pro. Code, and a similar Sec.in 196 of the same Code.

4. Once the bar is lifted, as a complaint being started by the person defamed, the Court giving - sanction under Sec.195 or the Government permitting the prosecution of a public servant concerned, the case law is uniform that the trial can proceed at the instance of anybody even though the grantee of the sanction might be dead, and even though the person defamed might be dead, and so on.

5. Regarding the particular Section 196, the principle named above has been applied in numerous cases. Sir Arnold White the Chief Judge and Mr. Justice Miller as he then was before he became the Chief Justice of our High Court, had to construe the order of the Government which did not empower the particular officer who filed the complaint to institute it. They held, overruling the objection taken at the instance of the accused that "the only question which the Court has to consider with reference to Sec.196, Crl. Procedure Code is - is the complaint, which I am asked to entertain, made by order or under the authority of the Government ?" If the answer to the question is in the affirmative which it must necessarily be in the circumstances of the case then it is validly - instituted, even though the complainant is not the

Serial No.

person expressly or by necessary implication appointed by the Government for the purpose of starting the proceedings.

6. The order which had to be construed in 22 Bombay 112 did not specify any person whatsoever as the complainant. It simply mentioned the name of the accused and the substance of the accusation; not even the specific offending articles were referred to in the order. Yet the learned Judge held that the order was a good one in so far as it expressed the considered opinion of the local Govt. holding that an offence was disclosed in the circumstances of the case, and that was all that was necessary to lift the bar for the proceedings being initiated and continued. The learned Judge makes it clear that the object of Section 196 is to prevent unauthorised persons from intruding in matters of State by instituting the said prosecution and to secure that such prosecution should only be instituted under the authority of the Government.

7. Supposing the complainant is not the person authorised. That is all the apprehension of the learned Public Prosecutor. Even then the prosecution is authorised and the object of Sec.196 is achieved by the authorisation of the prosecution.

8. 55 Allahabad 798, though it did not come under Sec.196 but came under Sec.197 is still in point for illustrating the principle that the institution

WD 03594—GPB—30,000—13-7-35

institution of complaint by one other than the person named by the Government may not be wrong or even be an irregularity necessitating the condonation of ~~the irregularity~~ under Sec.537. The order in that case directed the Deputy Commissioner to file the complaint. The actual complaint was instituted in Court by the Assistant Inspector of Schools. The learned Bench consisting of two Judges of the High Court at Allahabad held that "there is no provision in Section 197 of Crl. Pro. Code for a sanction to be addressed to any particular officer. A sanction is an order directing the prosecution of a certain person and in the ordinary way that is conveyed to the authorities who are responsible for initiating prosecutions in the locality in question. That "locality in question" is undoubtedly Bangalore City where the Police Officer is D.S.P. of Bangalore City. 35 Calcutta 141 was a similar case in so far as there also no particular person was named as the complainant. These instances cannot be worse than the naming of A as the complainant and B filing the complaint. So far as Mysore

9. So far as Mysore is concerned there is no specific ruling under Section 196, if argument by analogy is allowable then one can find support in two cases of the High Court. 32 Mysore Chief Court Report 238 overruled my contention that with the death of the grantee of the sanction under Sec.195 of Crl. Pro. Code, the sanction lapsed and no other person could institute the complaint or continue the complaint already instituted. The learned Chief Justice Rajadharmapravin

Serial No.

Rajadharmapravina C. S. Doraswami Iyer and his learned colleague Mr. Justice Rama Rao, overruled the contention and held that the object of Section 195 was merely to raise the bar for the investigation of certain kind of cases, and when once the bar was raised whether the person impliedly named as complainant was alive either to start the proceedings or to continue them to the finish was immaterial. 41 Mysore High Court Reports 237 was even a much stronger case where also my contention was overruled. In a case of defamation, the complainant died after the charge had been framed. One of his sons wanted to be brought on record as the complainant to continue the case. The learned Magistrate of the trial Court refused to proceed with the case on the ground that the person entitled to institute the complaint having been dead the complaint also died with him. I supported that order in the High Court. But the learned Judges the present Offg. Chief Justice Rajadharma Prasakta Shankaranarayana Rao and his learned Colleague Rajakarya Prasakta Mr. Justice Chari, held that the case should proceed even if the legal representatives of the deceased complainant should back out and refuse to proceed with the case. Cases can easily be multiplied. But I think what has been said so far makes the point clear that even if there should be considered to be an ambiguity in the designation of the officer directed to file the complaint and I believe there is not any ambiguity, he still

WD 03594—GPB—30,000—13-7-35

7770

Law File No. 215 of 1936

General and Revenue Secretariat

still it has very little bearing on the validity of the sanction or of the power of the Court to take cognisance of the case and proceed with the trial.

10. I found in the file of papers a statement of the accused. I did not see even a suggestion of objection apprehended by the learned Public Prosecuto: If and when the objection is taken, there will be time enough to issue a supplementary order indicating that the Officer was D.S.P. of Bangalore City.

11. The order signed by the Chief Secretary which in original I think has been filed in the case is presumptive proof of the fact that Government pass the order and no tribunal much less the accused can probe further into the matter to explore the avenue of information which led the Government to pass the order it did. Theirs' is the very last word in the matter, and I think the learned Public Prosecutor should be requested to oppose strenously the producti of documents referred to by him in his letter and the Officer if summoned to produce them should be instructe to claim privilege. If perchance the Court's order thereon should ~~xxxxxxxxxxxx~~ be adverse, the matter should be carried forthwith to the High Court to get their opinion on the point.

Mode. N. Lakshmi
Government Advocate.

CSN/5.7.37

18) For perusal. The G M will be informed accdgly
5/7/37

First Member

19) I agree. All this could have been avoided
5.7.37

GENERAL SECRETARY.

The PP's further communicati, with a copy of the witness list, is placed below. (P.U.D. III)

OFFICE SYSTEM
FIRST MEMBER
6 JULY 1937
No. 36.

Mahadeva Sastry's case

General and Revenue Secretariat | Law File No. 215 of 1936. | [App. F. III—2

Serial No.

by the simple addn of the word City before Supt in the G.O. Greater care shd be bestowed upon such orders. I wd even suggest having a printed Standard form of such sanctions so as to obviate omissions etc—

JSR
6/7

JSR
6/7/37

2) Draft G.O.
BSR
6.7.37

3) Draft put up for approval
BSR
6.7.37

(Chief Secy.) 7/7/37

JSR
6/7/37.
BSR
6/7

Issued vide P. 1674, dt. 6-7-37

From
The I.G. of Police in Mysore
G.O. Letter No. C.C 2/37-8 dt 9-7-1937
States that the G.O. dated 20-5-37 Search-

Law File No.

Serial No.

prosecution of Mahadeva Sastry for Sedition is defective for reasons given and requests the issue of a revised order to set right the defect. ch seen orders on the P.N.D. very urgent."

23) Kind reference is invited to paras 10 to 17 of the office notes in which the point of alleged defect in the G.O has been fully commented upon both by the Law Department & the Govt Adv. as the PPr Bangalore had raised in his letter X. dt 26.6.37 the very same point. As per final orders in para 19, a reply was given to the PPr in this office letter dt 6.7.37 H.A. H.S

24) The PPr has not stated in his letter dt 8.7.37 what objection was taken to the G.O. by the accused or his counsel nor the D.G.P in his present letter makes any mention of the objection taken on the last date of hearing viz 7.7.37.

It is therefore for orders whether there is a need for the issue of a revised G.O now

12/7/37 VR 14/7

25) P.N.D is for kind perusal. The same point had been raised by the P Pr, the question was considered elaborately and final orders were passed.

26) I do not think there is

General and Revenue Secretariat

~~Law~~ File No.

Serial No.

any real necessity to issue further instructions as suggested by the G.G.

BNR 13.7.37

Gen. Secy.

GENERAL SECRETARY

27) The letter from the G.G. is for perusal. He will be informed if approved, that any further instruction as may not be issued in the above means Bangalore city has been considered unnecessary and that the question of amending the form for such cases in future is under consideration

As per reading to legal opinion

BNR 13.7

14 JULY 1937 No. 381

First Member

8) 14/7

29) draft BNR 15.7

GENERAL SECRETARY 15 JULY 1937 265

30) Subd with a dft. for approval.

BNR 15/7

15 JUL 1937 GENL & REVL SECTT.

31) Gen. Secy. BNR 15.7

NOTE—Contn Sheet.

WD 03594—GPB—30,000—13-7-35

32) Issued as P.L. 280, of 1937-38

(6)

Gen. C 16-7-37

Gen. A 23-7-37

930

Form of order sanctioning prosecution in Secretariat

Law File No. 215 of 1936. General and Revenue Secretariat

From

The D.G. & Police

Letter no C.C. 2/37-38, dated 7-8-37 forwards a copy of the form of Govt order adopted by the Govt of Madras in according sanction to prosecute.

33) In obedience to first Member's orders in para 19 supra, the D.G. & Police was requested to send the formula that is being adopted in Madras. Along with P.V.D. he forwards the same. The formula (flag R) is submitted for consideration and orders.

34) Reference — Member's minute in para 19.

35) The D.G. of Police has forwarded the standard form in use in Madras Presidency (flag R)

36) I have put up for consideration a draft form for adoption here.

37) It may be approved

Gen. Secy) 13/9

BKR 20.8.37

BKR 13.9

3rd MK 14/9

BKR 14.9

i/c Secy.

First Member

34) 19/9

C. ... FIRST MEMBER C

SEP 15 19

No 1200

vide flag L

19/

GENERAL SECRETARY

20 AUG. 1937

1141

CHIEF SECRETARY

14. SEP. 19

GOVT. OF MYSORE.

C. C. 1/37-38 930.
(Govt vs Mahadeva Sastry.)

17

General and Revenue Secretariat

File No. 215 of 1936. [App. F. III–2

Serial No.	
40)	For perusal before issue MW 20/9 BNR 20.9
Dewan) 41)	MI 20-9-37 MW 21/9 BNR 21.9

DEWAN'S OFFICE
20 SEPT. 1937
No. 20 5 0

S. DORASWAMY IYER, B.A., B.L.
ADVOCATE

RESIDENCE: BASAVANGUDI

CHICKPET
BANGALORE CITY

6-II- 1937.

Revenue
riat

2558
2743

Confidential.

Dear Sir,

Re. Govrnment vs Mahadeva Sastri.

The above case is posted before the learned District Magistrate for further proceedings today. In the event of the Court deciding to frame a charge under S.124A., I.P.C.,is it necessary that I should move the Court for the accused being re-arrested and committed to custody pending the conclusion of the Trial? May I respectfully solicit instructions in the matter.

Yours sincerely,

S Doraswamy Iyr

M.Venkatesa Iyengar Esqr., M.A.
General Secretary
Government of Mysore,
Bangalore City.

For perusal.

42) The fact that Mr Sastry was let on bail was not reported to Govt. The fact of a charge being framed may not greatly alter the situation but it will justify the D.S.P. asking the Court to consider the question of committing the accused to custody. He may perhaps be asked to do this.

Hd Ch Secy / First Member

43) This is a matter which is best left to the discretion of the D.M. There is no rule that if a charge is framed, the accd. shd. be remanded to custody.

OFFICE OF THE FIRST MEMBER OF GOVT.
NOV 6 1937
No. 2775

TYPING SECTION
8. NOV 1937
GEN. & REV. SECTT.

44) Asst Secy Law. Please inform D.C. that the matter may be left to the discretion of the D.M.

45) A dft. D.O. is put up.

46) Draft D.O. is put up.

D.O. - No. P.24 13 dated 8-11-37

Ins. 6 June 32

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Order No.

Dated, Bangalore the 19--

Under the provisions of Section 196 of the Code of Criminal Procedure, 1904, the Government of ~~His Highness the Maharaja~~ of Mysore hereby sanctions the prosecution of..... for an offence under Section 124-A of the Indian Penal Code in respect of a speech in Kannada / English / Telugu delivered by him at.....on the ..... day of.....19... , a copy of which is appended to this order.

The Inspector-General of Police is requested to depute the District Superintendent of Police within whose jurisdiction the offence took place to prefer a complaint for the above offence before a competent court of law. The complaint should be preferred in consultation with the Public Prosecutor.....Division.

Secretary to Government.

To

.....

13/9/37

Confidential & Immediate.

In all future communications please quote
No. J1-C.C.1/36-37.
Enc.

Tel. Address.—"DEPCOM"
Post Box No. 34.

OFFICE OF THE DISTRICT MAGISTRATE,
BANGALORE DISTRICT.

Dated Bangalore, the.....10th June.....1937.

Law 215-36-3

GENERAL SECRETARY.
11 JUNE 1937

FROM

V. Vedavyasacharya, Esq., B.A.,
District Magistrate,
Bangalore District.

To

M. Venkatesa Iyengar, Esq., M.A.,
General Secretary to Government,
Bangalore.

SIR,

Subject :—

With reference to Government Order No P.6559-60/Law.215-36-2 dated 18/20-5-1937 sanctioning the prosecution of Mahadevasastry for an offence under Section 124 A, I.P.C., I have the honour to state that the City Superintendent of Police, Bangalore City has filed a charge sheet today before this court against the said person and the case is posted to 17-6-1937 for hearing.

In view of the importance of the case, I request that sanction of Government may be obtained to engage the services of the Public Prosecutor, Bangalore Division to conduct this case.

I solicit the favour of early orders of Government in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

Vedavyasacharya

District Magistrate,
Bangalore District.

10/6/37

G. R. S. App. F VI—G 2] ale

SUBJECT .....

.....

.....

Diary. No of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue 15-6-193 7

Signed by Rw. B K R.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section Law

File No. 215-36

Serial No. 4

Proceedings of the Government of His Highness the Maharaja of Mysore.

No. 6980-82. Law 215-36-4.

Read— G.O. no. P 6559 ~~Law~~ 60 Law 215-36-2, dated 18th-20th May 1937 Sanctioning the prosecution of Mahadevasastry for an offence under Sec. 124 A IPC

(2) Correspondence ending ~~Order thereon—No~~ with letter no. J1-C.C. 1/36-37, dated 10th June '37 from the Dist Magt, B'lore ~~Soliciting~~ stating that a Charge Sheet has been filed against Mahadeva Sastry before his Court, and Requesting Sanction of Govt to engage

Services of the P. M. B'lore

Conduct this Case

Order

Sanctioned

BKR

for Genl. Secy.

To

(1) The D. M. B'lore.

(2) The P. M. B'lore.

(3) The Comptr. to Govt.

List of Enclosure

Copied by

Examined by

B—22,500—12-7-35

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Read -

Government Order No.P.6559-60 Law 215-36-2 dated 18th-20th May 1937 sanctioning the prosecution of Mahadeva Sastry for an offence under Section 124 A Indian Penal Code.

2. Correspondence ending with letter No.J1-C.C.1/36-37 dated 10th June 1937 from the District Magistrate, Bangalore, stating that a charge sheet has been filed against Mahadeva Sastry before his Court, and requesting sanction of Government to engage the services of the Public Prosecutor, Bangalore to conduct this case.

O r d e r No. P 6950-52 Law 215-36-4.

Dated, Bangalore, 15th June 1937.

S a n c t i o n e d.

B.R. Ramakrishnaiya

for General Secretary to Government.

To

The District Magistrate, Bangalore,

The Public Prosecutor, Bangalore,

The Comptroller to Government.

NO. 53/36-37.

Office of the Public Prosecutor,
Bangalore Division,
Bangalore, dated 21st June 1937.

Confidential.

From

G.S. Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor, Bangalore.

GENERAL SECRETARY.
24 JUNE 1937

To

The General Secretary to the Government of H.H. the Maharaja of Mysore, Bangalore.

Sir,

C.C.No.I/36-37 on the file of the District Magistrate, Bangalore. (Government -VS- Mahadeva Sastry.)

I have the honour to enclose herewith a copy of the proceedings in the above case. In my opinion the sanction that is given by the Government has to be proved as it is not quite explicit. Certain letters are referred to therein and I solicit instructions whether privelege has to be claimed in respect of those letters. In consultation with the City Superintendent of Police I will decide upon the additional list of witnesses and documents to be produced and after obtaining instructions of Government will file them into court.

I have the honour to be,

Sir,

Your most obedient servant,

G. Doraswamy Iyer
Public Prosecutor.

Form No. 76, Criminal.

ORDER SHEET.

The District Magistrate
Bangalore Dist.

In the Court of

Case No. C.C. No. 1 of 19 36/—19 37.

Complainant.
Govt. (C.S.P. Bangalore City.)
Versus.
Accused
Hoskote Mahadeva Sastr
Knoxpet Bangalore.

Serial No.	Date of Order or Proceeding	Order or Proceeding with signature of Presiding Officer	Signature of parties or pleaders when necessary
1.	10-6-37.	The City Superintendent of Police Bangalore City has filed a charge sheet against the accused for an offence under Sec. 124 A I.P.C. with the previous sanction of Govt. Take the case on file and post it to 17-6-37. Issue a n bailable warrent against the accused. Police undertake t produce the prosecution witnesses on the next date of hearing. Dt. Magistrate.	
2	11-6-37.	Accused produced before me to-day at 11-30. A.M. by S.I. B.V. lankappa. (Special Branch.) - Bangalore City. Accused enquire whether he cannot be released on bail. There is no application for bail. In any case it is too premature to consider the request. Accused remanded till 17-6-37. Dt. Magistrate.	
	17-6-37.	Case called- Accused present in custody- Public Prosecu for Government. Accused requests short adjurnment to engage a counsel. Public Prosecutor says that in the me he will also produce the list of documents and a list of prosecution witnesses, with the precis of the facts to w ney speak - to enable the accused to be ready for cross examination examine them on the next date of hearing. Accused files a statement denying that he committ he offence alleged in the complaint; this will be place n the file -	

Accused prays thathe may be released on bail - Public prosecutor opposes the application (oral) It is too premature to consider the request for bail. It is an offence which is punishable with transportation a for life - No evidence has ye been adduced - there are no adequate grounds to allow the bail application - It is rejected -

Adjurned to 25-6-37. - Accused remanded.

Dt. Magistrate.

In the Court of the District Magistrate, Bangalore District.

C.C.No. 1/36-37.

Complainant. Accused.

Government - per- D.S.P. Bangalore City. H. Mahadeva Sastry.

The accused begs to submit as follows :-

(1) That the accused did not make any speech at Basettipet on 26-2-37 stated in the complaint, but did really make a speech at Nakkipet at about 8-40 p.m. on that day in connection with the election campaign, organised and directed by the congress committee. As a matter of fact the accused is surpised to see the complaint lodged against him.

(2) That the translated version of the speech as stated in the complaint which is absolutely false and baseless. In any of ~~the~~ his speeches the accused had not made any direct attacks either against His Highness or the British Crown.

(3) It was not the intention of the accused either to excite or attempt to excite hatred between the Government and the public and the only thing the accused used to say was about the growth, development and popularity of the congress and its creed pointing out side by side the various sacrifices and achievements the congress has made during the recent years, which have won the approval of the general public all over India and the whole hearted response to the call of the congress during the recent election in British India itself have shown that the majority in India were by the side of the congress and its policy. The accused have therefore only

pointed out the history of the congress appealing to the public that it was their duty to stand by the movement and exercise their own judgment before they make up their minds to cast therein votes.

(4) That the question of his speech given in the complaint is completely false. The accused had never made any such speeches nor had he any intention to make such abusive refe ences either against ~~the~~ His Highness the Maharaja or the British Crown or Britishers.

(5) That the accused has therefore not committed an offence under Section 124 A. I.P.C.

(6) The accused therefore begs to request that he may be discharged as he could swear that he had not made any offence as stated in the complaint.

Bangalore City. Sd. H. Mahadeva Sastry,
17-6-37

Produced by the accused today. May placed in the records.

Intd. V.V.
17-6-37.

" copy "

NO. 2256/36-37

Office of the Public Prosecutor,
Bangalore Division,
Bangalore, dated 25th June 1937.

From

G.S. Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor, Bangalore.

To

The General Secretary to the Government of H.H.
Maharaja of Mysore, Bangalore.

GENERAL SECRETARY
28 JUNE 1937

Sir,

In the court of the District Magistrate, Bangalore. Re: Government .VS. Mahadeva Sastry C.C.No.I/36-37.

I have the honour to state that in the above case I moved for an adjournment to day as I was engaged in the middle of Bangalore Sessions case No.24/36-37 in which 18 persons have been charged and committed for having lynched a man in Bangalore City, and which I was directed to conduct in the committing Magistrate's court also.

As the aforesaid 18 persons are in custody since December 1936 I had to proceed with that case.

I have the honour to be,

Sir,

Your most obedient servant,

G S Doraswamy

Public Prosecutor.

Confidential.

No. 23/36-37

Office of the Public Prosecutor,
Bangalore Division,
Bangalore, dated 26th June 1937.

From

G.S. Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor, Bangalore.

GENERAL SECRETARY.
28 JUNE 1937

To

The General Secretary to the Government of H.H. the Maharaja of Mysore, Bangalore.

Sir,

C.C.No.I/36-37 on the file of the District Magistrate, Bangalore. (Government -VS- Mahadeva Sastry.)

I have the honour to state that the above case has been adjourned to 7-7-1937 and the accused remanded to custody.

The sanction in this case has been accorded to the District Superintendent of Police, Bangalore while the District Superintendent of Police, Bangalore City has filed the complaint and has sworn that he has been authorized to file the complaint.

I solicit instructions of Government whether the City Superintendent of Police was authorized by Government to prefer the complaint in question in accordance with Section 196 of the Code of Criminal Procedure and if so the name of the person who will speak to the aforesaid matters, so that I can examine him as a witness.

This is necessay as there are two District Superintendents of Police in Bangalore one styled in the Civil list as Distr: Superintendent of Police, Bangalore city and another as Distri: Superintendent of Police, Bangalore.

I have the honour to be,

Sir,

Your most obedient servant,

E. Doransanus Jr.

public prosecutor.

Immediate

No. Confidential
Doc 873-38

Office of the Public Prosecutor,
Bangalore Division,
Bangalore, dated 2nd July 1937.

From

G.S. Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor, Bangalore.

GENERAL SECRETARY.
3- JULY 1937

To

M. Venkatesa Iyengar, Esq., M.A.,
General Secretary to the Government of Mysore,
Bangalore.

Sir,

C.C.No.I/36-37 on the file of the District Magistrate, Bangalore. (~~Makaaaaxx~~ Government -VS- Mahadeva Sastry.)

I respectfully invite attention to my last letter No. ~~Doc~~ 23/36-37 dated 26-6-37 asking for instructions as to certain matters and request to be favoured with an early reply as the case is posted to 7-7-1937 and notice of the matters have to be furnished to the counsel for the accused. In the meanwhile I have filed the annexed list tentatively.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

submitted.
— file has been forwarded to the Govt Advocate just to-day. This will be put up with that after its return.
Yes—
3/7 BVR 3/7

Hg. 7/2/37

In the Court of the District Magistrate
Bangalore

CC No. 1 of 1937

The Government of Mysore Complainant.

Vs.

Mahadeva Sastry. Accused.

The undersigned
prays that Summonses may
kindly be issued to the following
witnesses.

1. B. K. Ramakrishnaiah, Esq., M.A LL.B.,
Assistant Secretary, Law department
General and Revenue Secretariat,
Bangalore. To speak to the Sanction et

2. R. K. Somappa, Esq., B.A,
Superintendent of police
Bangalore city. To speak to the facts
case etc.

(3. Steno-graphers note book is
also produced herewith)

If any further witnesses
shall to be examined and any further
documents produced due notice thereof
will be furnished to the accused or
his Counsel as soon

Sd/- G. S. Doraswamy Aiyar.
Public Prosecutor.

Bangalore
2-7-37

Copy

15 OL 837

OFFICE OF THE DISTRICT MAGISTRATE
BANGALORE DISTRICT.

Dated Bangalore, the 2nd July, *193* 7

FROM

H. V. RAMASVAMI, ESQ., M.A., B.L.,
District Magistrate,
Bangalore District.

To

CHIEF SECRETARY. 3. JUL. 193 GOVT. OF MYSORE.

B. T. KESAVAIENGAR, ESQ., B.A.,
Chief Secretary to the Government
of Mysore, Bangalore.

BKR

Subject:—

I have the honour to forward herewith for favour of service and return summons in duplicate issued to Mr. Ramakrishniah, Assistant Secretary to the Government of Mysore, The case is posted to 7-7-37 (Government Vs. Mahadeva Sastry).

I have the honour to be,
S i r,
Your most obedient servant,

H V Ramaswami

DISTRICT MAGISTRATE
BANGALORE DISTRICT.

Appendix F G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193* .

Date of issue..... 6.7.37

Signed by ..... Sm - BKR

returning the summons put up for approval.

Sm
BKR
6.7

List of enclosures.....

Copied by 6-7-37

Examined by.....

Section Laws

File No.

Serial No.

No. P 1137 Revenue

To

The Dist Magt -

Bangalore

Sir -

I am directed to return herewith with due endorsement of service thereon summons in the C.C. No 1/36-37 on the file of ~~the District~~ your ~~Magistrate, Bangalore~~ Court (Gopi v Mahadeva Sastry) sent with your letter no CC 1/36-37, dated 2nd July '37.

I have etc

BKR
for Chief Secy

WD 0521—GPB—30,000—12-3-37

No 914 8/6/37 (17

The Public Prosecutor,

Bangalore Division.

Subject:- Prosecution of Mahadeva Sastry.

Sir,

With reference to your letters No. 53/36-37 dated 21st June 1937, and 23/36-37 dated 26th June 1937, on the above subject, I am directed to state that it is not necessary to examine any Officer of the General and Revenue Secretariat to speak to the fact that it was the District Superintendent of Police, Bangalore City that was authorised to prefer a complaint against the accused Mahadeva Sastry and that the District Superintendent of Police who has filed the complaint is competent to produce the G.O.in question and speak on the point.

With regard to the point raised in your letter dated 21-6-1937 in respect of production of certain documents referred to in the G.O., I am to state that in the event of this question being raised during the course of the trial, objection may be taken that they are not relevant and they are privile

privile_ed documents.

I have etc.,

Draft)
Gl. Secy to Govt.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P. 114

Dated, Bangalore, 6/7/37

From

M. Venkatesa Iyengar, Esquire, M.A.,
General Secretary to the Government of His Highness the Maharaja of Mysore.

To

G.S. Doraswamy Iyer, Esquire, B.A., B.L.,
Public Prosecutor, Bangalore Division, Bangalore.

Sir,

Prosecution of Mahadeva Sastri.

With reference to your letters No. 53/36-37 dated the 21st June 1937, and 23/36-37 dated the 26th June 1937, on the above subject, I am directed to state that it is not necessary to examine any Officer of the General and Revenue Secretariat to speak to the fact that it was the District Superintendent of Police of Bangalore City, that was authorised to prefer a complaint against the accused Mahadeva Sastry and that the District Superintendent of Police who has filed the complaint is competent to produce the Government Order in question and speak on the point.

With regard to the point raised in your letter dated the 21st June 1937 in respect of production of certain documents referred to in the Government Order, I am to state that in the event of this question being raised during the course of the trial, objection may be taken that they are not relevant and they are privileged documents.

I have the honor to be,
S i r ,
Your most obedient servant,

BM Ramakrishnaiya

for General Secretary to Government.

HAMILTON, Esq., C.I.E.,
Inspector-General of Police
in Mysore.

GOVERNMENT OF MYSORE

Camp: Tumkur.
BANGALORE

Protection
Vernacular
12/7

9th July 1931

Law 215-36-S

Dear Mr. Keshaviengar,

H.W
in Law 215-36

With reference to the order of Governmen sanctioning the prosecution of Mahadeva Sastri for sedition, you are aware that the order in question is defective in that the sanction is to the District Superintendent of Police, Bangalore, - whether of the City or District not being stated. I request that a further instruction may issue making it clear that the District Superintendent of Police referred to is the Superintendent of Police, Bangalore City, within whose jurisdiction the acts complained of against Mahadeva Sastri occurred.

There is a set formula followed in Madras for such orders, which I think might be followed in future cases in this State so as to obviate technical and legal objections being raised in Courts.

Yours sincerely,

B. T. Keshaviengar, Esq., B. A.,
Chief Secretary to Govt,
of Mysore, Bangalore.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P280 Law 215-36-6. Dated, Bangalore, 15th July 1937.
16

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Inspector General of Police in Mysore,
Bangalore.

Sir,

Regarding the Government Order sanctioning the prosecution of Mahadeva Sastry.

With reference to your D.O.letter No.C.C.2/37-38 dated the 9th July 1937, addressed to the Chief Secretary in regard to the above, I am directed to state that any further instruction to say that Bangalore in the Government Order No. P.6559-60 Law.215-36-2, dated the 18th/20th May 1937, means Bangalore City, has been considered un-necessary according to legal opinion, and that the question of adopting a Form for such cases in future is already under consideration.

The set formula, referred to in your letter ~~on~~ as being followed in Madras, may kindly be sent for information of Government.

I have the honour to be,
Sir,
Your most obedient servant,

for General Secretary to Government.

K.M.R.2.

Appendix F G—1]

SUBJECT .....

.....

.....

Section Law

File No. 215 - 36

Serial No. 6

Diary No. of letter replied to.....

No. P 280.

To

The G. G. P.

General and Revenue Secretariat

( )

the *193* .

Re: the Govt. order sanctioning the prosecution of Kaladerva Sastry.

Sir,

Date of issue..... 16-7-37.

With reference to your D.O. letter no C.C. 2/37-38, dated 9th July addressed to the Chief Secretary, '37 in regard to the above, I am directed to state that any further ~~action~~ instruction to say that Bangalore in the G.O. no P. 6559 - 60 Law 215-36-2, dated 18th - 20th May 1937, means Bangalore city, has been considered len - necessary according to legal opinion, and that the question of adopting a form for such cases in future is

Signed by ..... Mr. PKR.

List of enclosures.....

Copied by .....

Examined by.....

already under Consideration

J. Lake Esq

BNR
15.7.37

Gen: Secy

The set formula, referred to in your letter as being followed in Madras, may kindly be sent for information of Government.

930 P37 24

Tel. Address:
"POLICE"
PHONE No. 298.

POLICE DEPARTMENT.

OFFICE OF THE
INSPECTOR-GENERAL OF POLICE IN MYSORE.

When replying please quote
No. C. C. 2/37-38. Enc. 1.

Dated Bangalore, 7th August 1937

Law 215-37.j

FROM

F. A. HAMILTON, ESQ., C.I.E.,
Inspector-General of Police in Mysore,
Bangalore.

GENERAL SECRETARY.
9 AUG. 1937

M. Venkatesha Iyengar, Esq., M. A.,
General Secretary to the Government of Mysore,
Bangalore.

SIR,

With reference to your No. P.280/Law 215-36-6 dated 15/16th July 1937 requesting to send for information of Government the set formula referred to in my letter, I have the honour to enclose herewith a copy of the form received from the Inspector-General of Police, Madras, which Government Orders take in according sanction to prosecute in such cases.

I have the honour to be,

Sir,
Your most obedient servant,

INSPECTOR-GENERAL OF POLICE.

Encl to 8d 7

GOVERNMENT OF MADRAS.

Received.....193. Registered.....193.

Abstract.

Indian Penal Code - Section 124-A - Speech of ..... at..... - Prosecution - Sanctioned.

G.O.No..... .....Department.

Dated.....

O R D E R :-

Under the provisions of section 196 of the Code of Criminal Procedure, 1898, the Governor-in-Council hereby sanctions the prosecution of.....for an offence under section 124-A of the Indian Penal Code in respect of a speech in Telugu / English / Tamil delivered by him at .....on the ..... a copy of which is appended to this order.

2. The Commissioner of Police, Madras, / The Dist: Supdt: of Police, ...District to depute an officer of rank not lower than that of Inspector of Police to prefer a complaint for the above offence in the Court of .... The complaint should be prepared in consultation with the Crown Prosecutor, Madras / Public Prosecutor, ...Dt. who will conduct the case and will apply to the Deputy Inspector-General of Police, Railways and C.I.D. and the Commissioner of Police / Dt. Supdt. of Police,....Dt. for any further information or assistance required.

(By Order of the Governor in Council).

Secretary to Government.

" C O P Y "

Inspector-General of Police
in Mysore.

20

CONFIDENTIAL.

D.O. No. P2413
Law 215-36.

GENERAL AND REVENUE SECRETARIAT,

Dated, Bangalore, - 8th November 1937.

Government VS Mahadeva Sastry,
(C.C.1/36-37 on the file of the
District Magistrate, Bangalore).

Dear Mr.Doraswamy Iyer,

In reply to your D.O.letter No. Nil. dated 6th November 1937 in regard to the above case I am desired to state that the matter may be left to the discretion of the District Magistrate.

Yours sincerely,

HWR

C. S. Doraswamy Iyer, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore.

Appendix F G—1]

Confidential
Immediate

SUBJECT .....

.....

.....

Section Law

File No. 215-36

Serial No.

Diary No. of letter replied to..... D. O. No. P2413

General and Revenue Secretariat

( )

the *193* .

Date of issue..... 8-11-37

Signed by ..... Mr. BKR.

~~To~~

Govt vs Mahadeva Sastry,
(C. C. 1/36-37 on the file of the
Dist. Magt, B'lore)

Dear Mr Doraswamy Iyer,

In reply to your D.O. letter
no nil, dated 6th Nov: 1937
in regard to the above Case
I am desired to state that
the matter may be left to the
discretion of the Dist Magt,
Bangalore Dist.

Yours Sincerely
BKR

List of enclosures.....

Copied by .....

Examined by.....

To

G. S. Doraswamy Iyer Esq BA,
Public Prosecutor
Bangalore

WD 0521—GPB—30,000—12-3-37

3338/37
P
28

1146-8/37-38

Office of the Public Prosecutor,
Bangalore Division, Bangalore

dated 1-12-37

From. G.S.Doraswami Iyer, Esq, B.A. B.L.,
Public Prosecutor, Bangalore Dvn, Bangalore.

To

The General Secretary to the
Government of Mysore, Bangalore.

GENERAL SECRETARY.
2 DEC. 1937

(In the Court of the District Magistrate, Bangalore)

C.C. No. / of 1937-38.

Government Vs. Mahadevasastry.

Sir,

I have the honour to state that the accused in this case was convicted of an offence under Section 124A and sentenced to 4 months S.I.

Submitted for perusal.

4/12

I have the honour to be
Sir,
Your most obedient servant,

G.S. Doraswamy Iyer

Public Prosecutor,
Bangalore Dvn,
Bangalore.

3310/P&P/CB996 (29

OFFICE OF THE SECOND MEMBER OF COUNCIL
2 Dec 1937
NO 4448

IN THE COURT OF THE DISTRICT MAGISTRATE

BANGALORE DISTRICT.

Dated this 30th day of November 1937.

Present:- H.V. Ramaswami, Esq., M.A.,B.L., Dt. Magistrate

DEWAN'S OFFICE
No. 3550

Criminal Case No. /37-38.

Government Vs. Mahadeva Sastri

3280
7/12

3169
6/12

Judgment.

The accused in this case has been charged for delivering a Seditious Speech on 26th February 1937 at Basaltipet Bangalore City thereby committing an offence punishable under section 124 (A) Indian Penal Code.

GENERAL SECRETARIAT
4 DEC 1937

Five witnesses have been examined for the prosecution and cross-examined by the accused. The accused has stated that he has not made any unnecessary speech about political matters or cast any blame on Government ; that the Karnataka Congress Committee had got him to Bangalore from Hosakote for Electioneering work; that the Congress wanted votes on their side and tha he has committed no offence. He has adduced no evidence for the defence and has pleaded not guilty.

Only two issues arise for determination in this case. (1) Did the accused make the speech imputed to him? (2) Is the speech seditious within the meaning of section 124 (A) I.P.C. The first is a question of fact and the second of law.

The evidence adduced will be discussed briefly. P.W.1. is the Superintendent of Police Bangalor and speaks to the sanction of Government obtained fo prosecution etc. He was not present at the lecture P.W.3 Lankappa Police Sub Inspector also attended th

the meeting where the accused delivered his speech, which he took down in writing ~~which~~ in his note book Ex. P.6 (a). On the basis of this he prepared anoth report which has been filed as Ex. P.4. There is a want of correspondence between P.6 (a) and Ex. P.4 as is evident from the cross-examination of this witness who explains this as due to his adding fro memory (or from the context) the next morning in Ex.P.4 which he had omitted to take down at the time in Ex.P.6(Both P4 and P.6 (a) are in long hand and the witness was not well advised in trying to elaborate Ex.P4 in the way he has done. As it is both Ex. P.4 and P.6(a) have to be rejected.

P.W.4 is another Sub Inspector Lakshmana Iyer. He also attended the meeting where the accused spoke an his version of the speech is Ex.P.3(a). He first took down (rough notes) in Kannada the speech of the accused at the time it was given on a piece of paper. He tore and threw away this paper after translating it into English on another piece of paper ; this was also torn and thrown away after being typed into Ex. P.3. It is thus evident that the evidence of this witness and Ex. P.3 have both to be rejected.

We now come to the non-police witness Mr. Moses P.W.5 who was also present at the lecture. He has been examined 6 months after the lecture and professes to give a bare purport of what the accused said on the occasion. He does not come out ~~with~~ well under cross-examination and but little reliance can be placed on his testimony which is vague and indefinite.

The remaining ~~witnesses~~ P.W2 is a stenograpner in the Office of the Police Superintendent and had been deputed to attend the meeting in question. He took down the speech when it was given in shorthand Ex. P.7. This was then typed into longhand Ex. P.2. An attempt

was made in cross-examination to discredit this witness by asking him to take down in shorthand what was read to him in court in kannada and then to transcribe it into longhand afterwards (Ex. D1 and D2). This was not a fair test as Mr. Belur Srinivasiengar (for the defence) read the Kannada piece at a rate which no public lecturer would employ. A speech given at that rate would convey no sense to the audiance. There is no reason shown to distrust either this witness or the reliability of Exhibits P.2 and P.7; nor does the rejection of the other evidence in this case militate against the acceptance of the testimony of this witness though he is a police official. In this connection the observation of justice Tekchand in Ram Saram Das Vs. Emperor (A.I.R. 1930 Lahore 892) relevent and applies here. He says "The only ground which Mr. Shamar Chand was able to put forward for discrediting them is that they had been prepared by Police Officials. He argued that a document of this kind should be presumed to be suspicious. I can find no warrant for making any such presumption. A Policeman's testimony like that of every other witness must be judged on its merits and should be accepted or rejected according to the circumstances disclosed in each particular case. In the case before me I can find nothing suspicious about Ex. P.D. and after giving due weight to the arguments of counsel I see no reason to doubt its correctness. The defence have not let any evidence to point out any inaccuracies in the report". I therefore hold that the accused did make the speech imputed to him which is filed as Ex.P.2 in this case.

Coming now to the 2nd issue raised i.e, whether the speech is seditious, it will be seen that the major part of his speech is a tirade against the British Government He says inter alia "we are all living under the tyranny of the British rule which is sucking our blood". "The Indians have been made impotent by British rule which has sapped our vitality" "They are ruling us with an iron hand" They have brought into force a number of repressive Laws" The British parliament consists of barbers, tailor and shoemakers and these are the people that are ruling us" "We will have no rest and spare no pains till the British Government cease to exist in India."

All this is clearly an attempt to excite hatred and disaffection towards the Government Established by law in British India. What disaffection is has been clearly explained by Mr. Justice Strachey in Q. Empress Vs. Bala Gangadhara Tilak and another (22 Bom. 112). The accused In this case before me has been charged with attempting to excite disaffection and the passage in Justice Strachey's judgment is worth quoting here:-

"What are feelings of disaffection" ?. I agree with Sir Comer Petheram in the Bangobasi case that disaffection means simply (Sic) the absence of affection ~~(1)~~. It means hatred, enmity, dislike, hostility, contempt, and every form of ill-willto the Government. "Disloyalty" is perhaps the best general term, comprehending every possible form of bad feeling to the Government. That is what the law means by the disaffection which a man must not excite or attempt to excite; he must not make or try to make others feel enmity of any kind towards the Government. You will observe that the amount or intensity of the disaffection is absolutely immaterial except perhaps in dealing with the question of punishment. If a man excites or attempts to excite feeling

of disaffection, great or small, he is guilty under the section. In the next place it is absolutely immaterial whether any feelings of disaffection have been excited or not by the publication in question. It is true that there is before you a charge against each prisoner that he has actua excited feelings of disaffection to the Government. If yc are satisfied that he has done so, you will, of course, fir him guilty. But if you should hold that that charge is nc made out, and that no one is proved to have been excited tc entertain feelings of disaffection to the Government by rea ing these articles, still that alone would not justify you in acquitting the prisoners. For each of them is charged not only with exciting feelings of disaffection, but also with attempting to excite such feelings. You will observe that the section places on absolutely the same footing the successful exciting of feelings of disaffection and the unsuccessful attempt to excite them, so that, if you find that either of the prisoner has tried to excite such feelir ~~xfxdisaffxctionxandxthx~~ in others you must convict him ever if there is nothing to show that he succeeded. ~~(335)~~ Agai it is important that you should fully realize another point The offence consists in exciting or attempting to excite in others certain bad feelings towards the Government. It is not the exciting or attempting to excite mutiny or rebellic or any sort of actual disturbance, great or small. Whethe any disturbance or outbreak was caused by these articles, i absolutely immaterial. If the accused intended by the art to excite rebellion or disturbance, his act would doubtless fall within section 124 A and would probably fall within ot sections of the Penal Code. But even if he neither excite nor intended to excite any rebellion or outbreak or forcibl resistance to the authority of the Government, still if he

tried to excite feelings of enmity to the Government, that is sufficient to make him guilty under the section. I am aware that some distinguished persons have thought that there can be no offence against the section unless the accused either counsels or suggests rebellion or forcible resistance to Government. In my opinion, that view is absolutely opposed to the express words of the section itself, which as plainly as possible make the exciting or attempting to excite certain feelings, and not the inducin or attempting to induce to any course of action such as rebellion or forcible resistance, the test of guilt."

The accused's reference to the British Parliament in terms of contempt by itself would not have amounted to Sedition, as it has been held that allegations against the "Home" Government do not amount to an offence ur... section 124 A (A. I. R. 1930 Lahore P.156 Lakshman Sing Vs. Emperor) But there is no doubt that the speech as whole ~~amounts~~ is definitely ~~to be~~ seditious + within the purview of ~~as defined in~~ secti 124 A I.P.C. so far as his reference to the British Gove nent is concerned. ~~The accused has further stated "You~~ are all crying for the bare necessities of life just to sustain your lives from starvation and exposure while yo Maharaja is living a luxurious life amidst the splendour of palaces and Lights". The insinuation here is that His Highness is indifferent to the welfare of his subjec Apart from the absurdity of such an insinuation against a gracious Sovereign whose abiding solicitude for the welfare and prosperity of his people is a matter of common knowledge and admiration throughout the length and breadth of India, this ~~This~~ is clearly an attempt to excite disaffectiontowards His Highness the Maharaja, and brin the accused within the pale of section 124 A I.P.C, as force in Mysore .

I therefore find the accused guilty of the offence with which he stands charged and it remains now to ~~him~~ consider the question of the sentence. Ordinarily considering the grave nature of such offences and the extent of harm that may ensue, fairly deterrent punishments are necessary (35 M.C.C. R. Page 145) But it has also been held that where the speaker does not in terms advocate violence in any shape and there is nothing in the speech which might suggest its use a heavy sentence is not called for (A.I.R. 193 Lahore 892). The accused has not any where advocated violence in his speech , his remedy for the state of affairs depicted by him being that his audience should vote for the Congress . He is also a man over 60 years old [redacted]. This seems to have been his single speech delivered over 8 months ago. He is not alleged to be a man of such [redacted] influence that his words were likely to have much weight with the persons (about 150 in all according to P.W.2) who heard him. I therefore consider that a lenient sentence will serve the ends of Justice and sentence him to Simple imprisonment for four months

Dictated to Stenographer and pronounced in open court.

Sd/-

District Magistrate,
Bangalore District

Bangalore
30th Nov. 37.

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 12th June 19

No. 469/36-37
SECRETARY.
Enc. 269
19 JUNE 1937

FROM

The Public Prosecutor,
Bangalore Division,
Bangalore

To

The General Secretary
to the Government of Mysore
Bangalore

SIR,

Subject :— In the Court of the Dist magistrate Bangalore
Government v Mahadeva Gowda
C. C. No. 1 of 1936-37.

I have the honor to state that the above case has been adjourned to 25. 6. 37 as the accused wanted time to engage a counsel.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

WD 0205—GPB—1,000—17-8-33

1772372

No. 20-4031-38
Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore, 8th July *193* 7.

FROM

G.S. Doraswamy Iyer, Esq..B.A.,B.L.,
PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

TO

The General Secretary to the Government of
H.H. the Maharaja of Mysore, Bangalore.

SIR,

GENERAL SECRETARY.
9 JULY 1937

C.C.No.I/36-37 on the file of the District Magistrate, Bangalore.

I have the honour to state that the above case has been adjourned to 20-7-37 as the accused's counsel wanted to move for a transfer on the ground that the present District Magistrate as Inspector-General of Police had personal knowledge of some facts.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

Submitted for perusal.
10.7

Office of the Public Prosecutor,
Bangalore Division,
Bangalore, dated 21st July '37.

No. 1317 37-38

From

G.S. Doraswami Aiyar, Esq., B.A., B.L.,
Public Prosecutor,
Bangalore.

To

The General Secretary
to the Government of Mysore,
Bangalore.

GENERAL SECRETARY.
22 JULY 1937

Sir,

Re: C.C.I of 36-37 on the file of the District Magistrate, Bangalore. (Government Vs. Hosekote Mahadeva Sastry.).

I have the honour to intimate that in the above case P.W.I Mr. Somappa, City Superintendent of Police was examined in part and the case adjourned to 23-7-'37 for further examination.

Submitted for perusal

BKR
23/7

I have the honour to be,

Sir,

Your most obedient Servant,

BKS. 23-7-37

Public Prosecutor.

1601/8374

No. 37-38
Enc

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore, 24th July, 1937.

FROM

The PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

TO

M. Venkatesa Iyengar [illegible]r. M.A.,
The General Secretary, to Govt. c
Mysore, BANGALORE

SIR,

I have the honour to state that in C.C.No.1 of 36-37 (Government (Vs) Mahadevasastri, one witness was cross-examined and one - witness was examined and partly cross - examined yesterday and the case adjourned to 26-7-1937.

Subd for perusal.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

669 83-

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore 27th July, 1937 193

661

FROM

The PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

GENERAL SECRETARIAT
29 JULY 1937

To

The General Secretary to Government of Mysore,
Bangalore.

SIR,

Re : Government Vs. Mahdeva Sastri.

I have the honour to state that this case was part heard and adjourned to 4-8-37 for further proceedings.

The learned Magistrate was pleased to order the accused to be released on bail on his furnishing two sureties for Rs 500-0-0 each.

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

V 707 p837 b

No. 2312/37-3--
Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore, 6th August *193*

FROM

The PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

GENERAL SECRETARY
7 AUG. 1937

TO

The General Secretary
to the Government of Mysore,
Bangalore.

SIR,

Re C.C.I of 36-37 on the file of the District Magistrate, Bangalore. (Government Vs. Hosakote Mahadeva Sastry).

I have the honour to inform that the above case has been adjourned to 10th August 1937.

Submitted for perusal.

7/8

98

9-8-37

I have the honour to be,
Sir,
Your most obedient Servant,

Public Prosecutor.

952 2 17

No. 2535/ 36-38
Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore, Ioth August *193*7.

FROM

The PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

TO

GENERAL SECRETARY
11 AUG. 1937

The General Secretary
to the Government of Mysore,
Bangalore.

SIR,

Re: C.C.I of 36-37 on the file of the District Magistrate, Bangalore (Government Vs. H.Mahadeva Sastry

---

I have the honour to state that this case has been adjourned to the I7th instant as the witnesses were not served. The case could not be posted earlier as I have to appear in Tumkur in connection with C.C.269 of 36-37.

Subd.
The connected file has been submitted in connection with the draft form 3 G.O. to be adopted while according sanction to prosecute. After its return this will be placed in it.

12.8

I have the honour to be,
Sir,
Your most obedient Servant,

Public Prosecutor.

30 P 837

30 SECRETARY.

GENERAL 20 AUG. 1937

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore, 18th August *193* 7
19

FROM

The PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

TO

The General Secretary
to the Government of Mysore,
Bangalore.

SIR,

C.C.P of 36-37 on the file of the District Magistrate, Bangalore. (Government Vs. Hosakote Mahadeva Sastry)

I have the honour to state that the above case was adjourned to the 25th instant at the request of the counsel for the accused on account of his personal reasons.

I have the honour to be,
Sir,
Your most obedient Servant,

S Doraswamy
Public Prosecutor.

1378/37

No. 330-2/37-38
Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
BANGALORE DIVISION,

Bangalore,... 26th ..... August ....*1937*.

FROM

The PUBLIC PROSECUTOR,
BANGALORE DIVISION, BANGALORE.

GENERAL SECRETARY. 28 AUG. 1937

To The General Secretary
to the Government of Mysore,
Bangalore.

SIR,

Re: C.C.I of 36-37 on the file of the District Magistrate, Bangalore. (Government Vs. Hosakote Mahadeva Sastry).

I have the honour to ~~inform~~ state that the above case has been adjourned to 4th September 1937.

I have the honour to be,
Sir,
Your most obedient Servant,

Public Prosecutor.

No. 398-4 001/81-38

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore DIVISION,
DISTRICT OFFICE BUILDINGS,
Dated 4th September 1937.

FROM

GENERAL SECT. 6 SEP. 1937

The Public Prosecutor,
Bangalore Division,
Bangalore

To

The General Secretary
to the Government of Mysore
Bangalore

SIR,

Subject :— C.C. 19-3637 on the file of the District Magistrate, Bangalore. (Government Vs. Hosakote Mahadeva Sastry)

I have the honour to state that the above case has been adjourned to 16th September 1937 as one of the witnesses was absent

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor

No. S-68/37-38.

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore DIVISION,
DISTRICT OFFICE BUILDINGS,
Dated 20.9. *1937*.

FROM
GENERAL SECRT
21 SEP. 1937
The Public Prosecutor,
Bangalore Division,
Bangalore

To
The General Secretary
to Government of Mysore
Bangalore

SIR,

Subject :— Re Court of the District Magistrate Bangalore
CC. 1 of 37-38
Govt vs Machadeva Santi

I have the honour to state that the above case has been adjourned 1.10.37 for arguments as the whether a charge has to be framed or not.

Submitted for perusal.

BNR
23.9

Sec
23-9-37

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

GPB—900—30-8-37

J2558/p837 12

No. 833-S/37-38

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore..... DIVISION,
DISTRICT OFFICE BUILDINGS,
Dated 26th October 1937.

FROM

The Public Prosecutor,
Bangalore..... Division,
.....Bangalore.....

GENERAL SECRETARY. 28 OCT. 1937

To

The General Secretary
to the Government of Mysore,
Bangalore.

SIR,

Subject :— C.C.I of 36-37 on the file of the District Magistrate, Bangalore, Government Vs. Hosakote Mahadeva Sastry.

I have the honour to state that the above case has been adjourned to 6th November 1937 as the .....

Submitted for perusal

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor

F 2785/37 17

OFFICE OF THE PUBLIC PROSECUTOR,
.....Bangalore.....DIVISION,
DISTRICT OFFICE BUILDINGS.

No. 928-30/37-38

Enc.

Dated.....7th.....Novr.....193 7.

GENERAL SECRETARY
9 NOV. 1937

OFFICE OF THE
FIRST MEMBER OF COUNCIL
NOV 9 1937
No. 2950

From *The Public Prosecutor,*
.....Bangalore.....*Division,*
Bangalore.

To
The General Secretary,
to the Government of H.H.The Maharaja
of Mysore, BANGALORE.

SIR,

Subject:— Govt. (Vs.) Mahadeva Sastry.
on the Court of the District Magistrate,
*****
Bangalore

I have the honor to state that the above case has been adjourned to 15 th November, 1937 for further proceedings. as the The accused is charged for an offence under Section 124 A.

For perusal pw 9/11
BKR 9.11

not member

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

WD 0205—GPB—1,000—17-8-33

10/11 pw 10/11

BKR 11.11

8019
P

14

No. 1022-437-38

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
.....Bangalore..... DIVISION,
DISTRICT OFFICE BUILDINGS,

Dated...16th.....November.....*1937*.

FROM

The Public Prosecutor,
.....Bangalore..... *Division,*

GENERAL SECRETARY 18 NOV. 1937

.....Bangalore.....

To

The General Secretary,
to the Government of Mysore,
Bangalore.

SIR,

Subject :— C.C.I of 37-38 on the file of the District Magistrate, Bangalore. (Government Vs. Hosakote Mahadeva Sastry)

I have the honour to state that the above case has been adjourned to.....22nd November 1937..... .... ~~xx~~

~~xxx~~.....

Submitted for perusal.

19-11

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

19-11-37

3139 P 837

OFFICE OF THE PUBLIC PROSECUTOR,
...Bangalore... DIVISION,
DISTRICT OFFICE BUILDINGS,
Dated...22-11-.....193

No. 1066

Enc.

FROM

GENERAL SECRETARIAT
23 NOV 1937

The Public Prosecutor,
.....Bangalore *Division,*
.....Bangalore

To

The General Secretary
to the Government of Mysore
Bangalore

SIR,

Subject :— Cc. 1 of 37-38 on the file of the District Magistrate, Bangalore (Government Vs H. Mahadeva Sastry)

I have the honour to state that the above case has been adjourned to 30.11.37 for Judgment as the case was argued today.

Submitted for perusal.

BKR
24.11

I have the honour to be,
Sir,
Your most obedient servant,

24-11-37

Public Prosecutor.

Cork v. Mahadeva Sastry pages 14 to 16

General and Revenue Secretariat | Law File No. 215 of 1936 | [App. F. III—2

No. 11317/37-38

Enc.

GENERAL SECRETARY. 1 DEC. 1937

OFFICE OF THE PUBLIC PROSECUTOR,
Bangalore DIVISION,
DISTRICT OFFICE BUILDINGS,
Dated 30th November 1937

FROM

The Public Prosecutor
Bangalore Division,
Bangalore

To

The General Secretary
to the Government of Mysore
Bangalore

OFFICE OF THE FIRST MEMBER OF COUNCIL
SIR
DEC 2 1937
No. 2992

OFFICE
3634

Subject :— C.C. 1 of 37-38 on the file of the District Magistrate, Bangalore. (Government Vs Holakote Mahadeva Sastry).

I have the honour to state that the above case has been adjourned to-day to judgment was pronounced on 30th Nov 37 as the Convicting the accused to 4 months Simple Imprisonment.

Re: perusal 1/12/37

I have the honour to be,
Sir,
Your most obedient servant,
for Mr. G.S. Srinivasa Iyer
Public Prosecutor

December

WD 03485—GPB—900—30-8-37

1/12/37

Official notes, pages 1 to 19

Correspondence, pages 1 to 34

Progress reports, pages 1 to 16